

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
BRIAN S. MILLER, JUDGE

DIVISION I

CA06-1482

May 9, 2007

CHRISTOPHER MCCARTY
APPELLANT

v.

ARKANSAS DEPARTMENT OF
HEALTH & HUMAN SERVICES
APPELLEE

AN APPEAL FROM THE BENTON
COUNTY CIRCUIT COURT
[J-05-476]

HONORABLE JAY T. FINCH,
JUDGE

AFFIRMED

This appeal is brought by Chris McCarty, challenging the sufficiency of the evidence supporting an order terminating his parental rights. We affirm.

On May 17, 2005, the Arkansas Department of Health and Human Services took McCarty's twin daughters, d/o/b January 6, 2004, into custody due to the drug use of McCarty and his wife, Stephanie. A probable cause order for removal was entered on June 21, 2005, placing the twins with their maternal grandmother. On July 21, 2005, the court determined the twins to be dependent/neglected and set reunification as the goal of the case. McCarty was ordered, among other things, to obtain and complete a drug and alcohol assessment; to submit to random drug testing; to attend and complete eighteen hours of parenting classes; and to pay child support.

McCarty was imprisoned on September 17, 2005, for theft by receiving. When McCarty failed to comply with the caseplan, a review order was entered on November 2,

2005, setting reunification as the goal but setting a concurrent goal of permanency through alternative means. On July 7, 2006, a Permanency Planning Order was entered changing the goal to termination of parental rights. Seven days later, Stephanie agreed to terminate her parental rights.

Although incarcerated, McCarty appeared at the September 11, 2006, termination hearing and testified that he neglected his twins prior to incarceration because he had been addicted to methamphetamine. Although he acknowledged that the twins tested positive for methamphetamine immediately after being removed from his home, he believed they absorbed the methamphetamine from his clothing. He conceded the presence of drug paraphernalia in his home but denied using or cooking methamphetamine around the twins. McCarty admitted to visiting the twins only seven times in the sixteen months preceding the hearing and failing to pay child support.

Amber Strickland, the twins' caseworker, recommended terminating McCarty's parental rights. She said McCarty failed to comply with the case plan even before he was incarcerated. McCarty failed to complete a drug and alcohol assessment and had only completed two hours of parenting classes. She testified that the twins had been removed from McCarty's home for sixteen months and that McCarty had been absent for a major part of their lives. She, therefore, believed that adoption was the appropriate goal.

The court terminated McCarty's parental rights on October 9, 2006. In the order terminating his rights, the court found that reunification with McCarty was contrary to the

best interest, health and safety, and welfare of the twins. The court also made the following findings: McCarty failed to protect the twins from neglect or parental unfitness by permitting items related to the use and manufacture of methamphetamine to remain in his home; McCarty was incarcerated at the time of the twins' removal and there was no appropriate relative or friend willing or able to care for them; the twins had been out of the home for sixteen months; McCarty had failed to make substantial progress pursuant to the case-plan goals and court orders; McCarty had endangered the twins by failing to properly supervise them; and McCarty had failed to pay child support.

A heavy burden is placed upon a party seeking to terminate a relationship because termination of parental rights is an extreme remedy in derogation of the natural rights of the parents. *Trout v. Dep't of Human Servs.*, 359 Ark. 283, 197 S.W.3d 486 (2004). Nevertheless, parental rights will not be enforced to the detriment or destruction of the health and well-being of the child. *Maxwell v. Ark. Dep't of Human Servs.*, 90 Ark. App. 223, 205 S.W.3d 801 (2005). Parental rights must give way to the best interest of the child when the natural parents seriously fail to provide reasonable care for their minor children. *Id.*

The facts warranting termination of parental rights must be proven by clear and convincing evidence, and in reviewing the trial court's evaluation of the evidence, we will not reverse unless the court's finding of clear and convincing evidence is clearly erroneous. *Johnson v. Ark. Dep't of Human Servs.*, 78 Ark. App. 112, 82 S.W.3d 183 (2002). A finding is clearly erroneous when, although there is evidence to support it, the reviewing court on the

entire evidence is left with a definite and firm conviction that a mistake has been made. *Lewis v. Ark. Dep't of Human Servs.*, 364 Ark. 243, ___ S.W.3d ___ (2005). Such cases are reviewed de novo on appeal. *Id.* In resolving the clearly erroneous question, we must give due regard to the opportunity of the trial court to judge the credibility of the witnesses. *McFarland v. Ark. Dep't of Human Servs.*, 91 Ark. App. 323, 210 S.W.3d 143 (2005). We also give great weight to the trial judge's personal observations in matters involving the welfare of young children. *Id.*

In support of his challenge to the sufficiency of the evidence, McCarty argues that he remedied the conditions that caused the twins' removal and that any delays in finding housing, as required by the case plan, were caused by the State because it had taken thirteen months to place him in a correctional facility. He also argues that there was insufficient evidence to find that reunification could not be accomplished within a reasonable period of time from the juvenile's perspective.

We affirm the termination of McCarty's parental rights because there is clear and convincing evidence upon which the trial court could find that the twins' best interests were served by the termination. *See* Ark. Code Ann. § 9-27-341(b)(3)(A). Also, only one ground is necessary to terminate parental rights, *Albright v. Ark. Dep't of Human Servs.*, ___ Ark. App. ___, ___ S.W.3d ___ (Jan. 31, 2007), and while McCarty addresses two of the grounds considered by the court in terminating his rights, he fails to address all of the other grounds provided by the court. For these reasons, we hold that the decision to terminate McCarty's

parental rights is not clearly erroneous and is therefore affirmed.

Affirmed.

GLOVER and BAKER, JJ., agree.